

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

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NOTICE OF EXPEDITED RULEMAKING

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

Pursuant to §49-471.01 *et seq.*

[M14-358]

1. Preamble

A. The Pinal County Air Quality Control District (PCAQCD), an operating division of Pinal County, proposes that the Board of Supervisors (BOS) adopt or amend certain rules under authority of A.R.S. §§49-479 and 49-480, which respectively authorize the board to adopt rules to control air pollution and to adopt a stationary source permit program.

This rulemaking is taking place to align the PCAQCD definition of a Major Source to the Federal Regulation (40 CFR §52.21(b)(1)(i)(c)) and Arizona Department of Environmental Quality (ADEQ) Rule §18-2-401(11). Additionally, this rulemaking proposal is needed to conform to A.R.S. 49-480.B which requires the PCAQCD rule to be no more stringent than the conforming ADEQ rule.

The specific affected rules are identified below and include an amendment to §1-1-105 with the ultimate purpose of this rulemaking being the submittal of the amended rule as an element of the Arizona State Implementation Plan (SIP) as required under the Clean Air Act (CAA).

ADEQ as part of their New Source Review (NSR) rulemaking in 2012 (Notice of Final Rulemaking 18 AAR 1542, 7/6/12) revised their definition of Major Source to remove an old version of the definition (R9-3-101) in which “any change to a minor source which would increase its emissions to the qualifying levels” constitutes construction of a major stationary source subject to major NSR. Under current EPA rules, a modification to a minor source is subject to EPA’s NSR program, only if it results in an increase in and of itself greater than or equal to the major source threshold.

This proposed expedited rulemaking is to conform PCAQCD’s rules to the ADEQ rules as revised as well as federal rules.

B. All of the proposed corresponding changes are discussed in subsection E. of this preamble, and include the following sections:

Section Affected	Rulemaking Action
§ 1-1-105	Amend
§ 3-3-203 Definitions	Amend

C. Those wishing further information regarding any aspect of this proposal may contact Scott DiBiase, Planning Manager, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, Arizona, 520-866-6929, scott.dibiase@pinal-countyaz.gov. To the extent possible, the District will also post information on the County's website, pinalcountyaz.gov, under the “air quality” link.

D. Given the obligatory nature of the proposed action, this rule-adoption will follow the expedited rule-making process defined in A.R.S. §49-471.08. Following publication of a notice of expedited rulemaking and a 30-day public comment period (comment period ends at close of business on Monday, January 26, 2015), the proposal along with a summary of any comments received will be submitted to the Board of Supervisors for consideration and possible adoption. The tentative date for the hearing-of-adoption before the Board of Supervisors is February 18, 2015. The final date, time and location for the hearing-of-adoption before the Board of Supervisors will be separately scheduled and noticed in accord with the requirements of A.R.S. §49-479 and 40 C.F.R. §51.102.

E. The proposed revisions include the following:

1. §1-1-105 – Addition of latest adoption date to Chapter 3, Article 3. Section 1-1-105 is a list designating which rules (and their corresponding adoption dates) are to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP

2. §3-3-203 – Removal of 3-3-203(2)(c) to align that particular aspect of the Pinal County rule with the Arizona Department of Environmental Quality rule R18-2-401(11).

F. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

ADEQ State Implementation Plan Revision New Source Review Final Version, October 2012 (page 12, *Definition of Major Source – “One-Time Doubling Rule”*).

G. Economic, small business and consumer impact statement

Given the “at least as stringent” mandate of A.R.S. §49-479, the District has not attempted to assess any added costs associated with the conforming changes discussed in subsection D above.

H. In accord with A.R.S. §49-471.07(F), the proposed changes will take effect upon approval by the Board of Supervisors.

I. Compliance with the Fee-limitations of A.R.S. §49-112 (A) or (B).

Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable. To the extent the County's program affects certain sources that ADEQ either does not regulate or does not charge, these proposed changes do not impose any additional fees on those sources.

J. Pursuant to A.R.S. 49-471.08(A)(2), Michael Sundblom, the Control Officer for the District, finds that the proposed rules are necessary to comply with A.R.S. § 49-480.B and are substantially identical to the sense, meaning and effect of the underlying federal and state mandates (40 CFR §52.21(b)(1)(i)(c)) and Arizona Revised Statutes § 49-480.B.

2. The full text of the proposed changes follows:

1-1-105. SIP list

A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

1. Chapter 1
 - a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
 - b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
 - c. Article 3. (As amended 5/14/97, 5/27/98 and 10/27/04, 07/23/14, except for §1-3-130 and the definition in §1-3-140.82 (10/12/95) of “maximum achievable control technology.”)
2. Chapter 2
 - a. Article 1. (As amended 10/12/95).
 - b. Article 2. (As amended 5/14/97).
 - c. Article 3. (As amended 10/12/95).
 - d. Article 4. (As amended 10/12/95).
 - e. Article 5. (As amended 10/12/95).
 - f. Article 6. (As amended 10/12/95).
 - g. Article 7. (As amended 10/12/95).
 - h. Article 8. (As amended 5/18/05, as amended 1/7/09).
3. Chapter 3
 - a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. §3-1-020
 - ii. §3-1-045
 - iii. §3-1-080
 - iv. §3-1-100
 - b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
 - c. Article 3. (As amended 10/12/95, 02/18/15).

- d. Article 8. (As amended 10/12/95 and 10/27/04).
- 4. Chapter 4
 - a. Article 1. (As amended 2/22/95).
 - b. Article 2. (As amended 5/14/97, 7/12/00, 12/4/02 and 10/27/04).
 - c. Reserved.
 - d. Article 4 (As amended 6/3/09).
 - e. Article 5 (As amended 6/3/09).
 - f. Reserved.
 - g. Article 7 (As amended 6/3/09)
 - h. Reserved.
 - i. Article 9, limited to:
 - i. §4-9-320 (As amended 6/3/09)
 - ii. §4-9-340 (As amended 6/3/09).
- B.** Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save §3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:
 - 1. "construction," as defined in Nov. '93 Code §1-3-140.28; or
 - 2. "modification," as defined in Nov. '93 Code §1-3-140.85; and
- C.** Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:
 - 1. Operate as elements of the SIP insofar as they pertain to other than "conventional pollutants," as defined in §1-3-140.33;
 - 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. §111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
 - 3. Operate as an element of the SIP, at least insofar as they impose a "fee";
 - 4. Operate as an element of the SIP, at least insofar as they require a "certification";
 - 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to "renewals";
 - 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding "excess emissions"; or
 - 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding "compliance plans."
- D.** As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:
 - 1. §§1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
 - 2. Chapter 2, Article 8 (As amended 1/7/09) *Visibility Limiting Standard*
 - 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
 - 4. [Reserved]
 - 5. [Reserved]
 - 6. [Reserved]
 - 7. [Reserved]
 - 8. [Reserved]
 - 9. [Reserved]
 - 10. [Reserved]
 - 11. [Reserved]
 - 12. §5-18-740 (2/22/95) *Storage of Organic Compounds - Organic Compound Emissions*
 - 13. §5-19-800 (2/22/95) *Loading of Volatile Organic Compounds - Organic Compound Emissions*
 - 14. §5-21-920 (2/22/95) *Fossil Fuel Fired Industrial and Commercial Equipment Standard Applicability*
 - 15. §5-21-930 (2/22/95 and 7/12/00) *Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard*
 - 16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
 - 17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
 - 18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
 - 19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*

- 20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*
- 21. §5-24-1040 (2/22/95) *Carbon Monoxide Emissions - Industrial Processes*
- 22. §5-24-1045 (2/22/95) *Sulfite Pulp Mills - Sulfur Compound Emissions*
- 23. §5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions - Default Limitation*
- 24. §5-24-1055 (2/22/95) *Pumps and Compressors - Organic Compound Emissions*

3-3-203. Definitions

For purposes of this article, the following definitions shall apply:

- 1. **ADVERSE IMPACT ON VISIBILITY** - Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of a Class I area, as determined according to §3-3-280.
- 2. **MAJOR SOURCE** -
 - a. Any stationary source located in a nonattainment area which emits, or has the potential to emit, 100 tons per year or more of any conventional air pollutant, except as follows:

Pollutant Emitted	Nonattainment Pollutant and Classification	Quantity Threshold tons/year or more
Carbon Monoxide (CO)	CO, Serious, with stationary sources as more than 25% of source inventory	50
Volatile Organic Compounds (VOC)	Ozone, Serious	50
VOC	Ozone, Severe	25
PM ₁₀	PM ₁₀ , Serious	70

- b. Any stationary source located in an attainment or unclassifiable area which emits, or has the potential to emit, 100 tons per year or more of any conventional air pollutant if the source is classified as a categorical source, or 250 tons per year or more of any pollutant subject to regulation under the Clean Air Act (1990) if the source is not classified as a categorical source; or
 - ~~e. Any change to a minor source which would increase its emissions to the qualifying levels specified under Paragraphs a. or b. of this subdivision; or~~
 - ~~d.~~ Any stationary source which emits, or has the potential to emit, five or more tons of lead per year; or
 - ~~e.~~ Any source classified as major undergoing modification that meets the definition of reconstruction.
 - ~~f.~~ A major source that is major for volatile organic compounds shall be considered major for ozone.
 - ~~g.~~ A major source that is major for oxides of nitrogen shall be considered major for ozone in nonattainment areas classified as marginal, moderate, serious or severe.
- 3. **RESOURCE RECOVERY PROJECT** - Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Only energy conversion facilities that utilize solid waste which provides more than 50 percent of the heat input shall be considered a resource recovery project under this article.

NOTICE OF EXPEDITED RULEMAKING DOCKET OPENING

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

(Ref. A.R.S. § 41-1021)

[M14-357]

- 1. **Title and its heading:**
Regulations and headings:
Rules and headings:
 - Pinal County Air Quality Control District Code of Regulations
 - 1, General Provisions and Definitions
 - 1-1-105. SIP List
 - 3-3-203. Definitions
- 2. **Subject Matter of the Proposed Rule**

The Pinal County Air Quality Control District (PCAQCD) is proposing to amend the definition a major source in order to align the definition with Federal Regulation (40 CFR § 52.21(b)(1)(i)(c)) and Arizona Department of Environmental Quality (ADEQ) Rule § 18-2-401(11). Additionally, this rulemaking proposal is needed to conform to A.R.S. 49-480.B which requires the Pinal County Air Quality rule to be no more stringent than the conforming ADEQ rule.

The proposed rule amendment after adoption by the Pinal County Board of Supervisors will be submitted to the Environmental Protection Agency (EPA) through the Arizona Department of Environmental Quality (ADEQ) for inclusion in the Arizona State Implementation Plan (SIP).

Also as part of this rulemaking, Pinal County may add, delete or modify additional rules as necessary.

3. Prior Related Notices

None

4. Contact Information

Those wishing further information regarding any aspect of this proposal may contact

Name and title: Scott DiBiase, Air Quality Planning Manager

Address: Pinal County Air Quality
31 N. Pinal St., Building F
Florence, AZ 85132

Telephone: (520) 866-6929

Fax: (520) 866-6967

E-mail: scott.dibiase@pinalcountyaz.gov

To the extent possible, the District will also post information on the County's website, www.pinalcountyaz.gov, under the "air quality" link.

5. Opportunity for Written or Oral Comments

The District will publish a Notice of Expedited Rulemaking that will define a formal timetable for submittal of written comments. At any time prior to the close of that to-be-defined comment period, anyone may seek information or submit comments by contacting the Planning Manager at the address shown above. Ultimately, the public will also have an opportunity to offer comment in the public hearing before the Board of Supervisors.

6. Anticipated Timetable

To be announced in the Notice of Expedited Rulemaking.